

A NEW START FOR LIBYA

Purpose and Executive Summary

The current situation in Libya is often analysed as brought about by warring factions, different tribes and fractious politicians. No doubt all of these have played their part but this paper will make the case that at their heart Libya's problems arise from what is a fundamentally rotten economic system. Without addressing the need for massive changes to the underlying economic structure it will not be possible to put a workable political agreement in place.

This paper will examine some of Libya's recent history. It describes the 17 February 2011 Revolution and its aftermath in some detail, to explain how the great hopes of 2011 have been dashed. It also looks at the current economic system in Libya and how that system came about. Finally it provides an outline of what might replace that system with Four Core Rights. It concludes that:

- the situation of Libya with its oil wealth and overseas assets was very different from most post-revolutionary situations and this, although helpful in many ways, hindered the development of proper governance after 2011;
- the economic system created by Gaddafi was a centralised one, with all revenue funnelled through the Central Bank of Libya ("CBL"). It was operated by a dictator and needed a dictator to function adequately;
- The attempt to leave the pre-existing "Gaddafinomics" structure in place until after a new government had been established was fundamentally flawed and more or less guaranteed a bad outcome;
- Libya needs to adopt a new decentralised "social market" economy with a properly functioning transparent social security system if it is to prosper. This would see the Gaddafinomics system of a flow of funds controlled by the CBL and a rentier system of rent seeking and favours replaced by an open market economy underpinned by social security, the rule of law and clear rights and responsibilities for citizens, their local government and their central government;
- This new economic approach needs to be started with or even to precede the new political arrangements. The political cannot succeed without the economic;
- Libya needs to adopt new decentralised political arrangements, with clear boundaries between what is to be done at national and at local levels, if the security situation is to improve and the normal services expected of government are to be provided. Local communities would become responsible for many of the things that are currently the responsibility of the central government;

This paper does not address the new approach in detail nor the road to arrive there. Those will be discussed in a later separate paper.

The 17 February 2011 Revolution and its Aftermath

As Libya is a country with significant oil wealth, the Libyan Transitional Authorities were always likely to face an unusual challenge after the revolution in 2011. Whereas in most post conflict situations the country involved is short of money, Libya was a country with abundant liquidity and financial resources but very poor monetary and financial controls.

In “normal” post conflict planning the donor community is assembled to raise millions of dollars in complicated multilateral trust funds that are then leveraged to finance much needed post conflict reconstruction. The Libyan situation was very different from this and there was ambiguity in what was needed from the donor community; there was no immediate precedent for post conflict planning when the recipient country was so well endowed with financial resources.

Thus at the outset the donor community had a reduced amount of leverage over the Libyan Transitional Authorities. Normally the donor community is in the driving seat: by providing a new government with much needed finance it can insist on commitments to predefined policies such as structural, legal and institutional reforms. In the Libyan case the donor community could not be in the driving seat in the same way and this led to a dilemma for donors and international financial institutions as to how best to approach Libyan post conflict planning, as well as reluctance to be too involved.

The most significant act of international intervention was, of course, the asset freeze imposed by the United National Security Council through Resolutions 1970 & 1973 and the subsequent asset freezes implemented by the US and the EU. The asset freezes obviously changed the question of leverage, and with the severe effects of the conflict on Libyan oil output, which fell to less than 5 % of the average pre-conflict daily output in July 2011, the National Transitional Council (“NTC”) was faced with a significant problem as it had only a limited capacity to deliver normal public services.

For the duration of the conflict the NTC continuously sought financial assistance in the form of loans collateralizing future oil and gas revenues, however there were critical shortages of cash for the duration of the conflict.

At the contact group meeting in Rome in May 2011 a Temporary Financial Mechanism (“TFM”) was established and led to a framework whereby donors committed assets to a trust fund that was to be used to supply basic goods and services to the NTC controlled areas. The TFM mechanism provided an ordered situation whereby appropriate governance structures were put in place to manage expenditure in Libya’s newly liberated regions and provided a framework within which the NTC’s new institutional structures would be able to enhance their effectiveness in planning and disbursing funding requirements. The TFM continued to operate until the liberation of Tripoli.

In the post conflict era the NTC gained access to the government accounts in Tripoli, and quickly realized that the country was facing a deficit for the financial year 2011, mainly as a result of the decline in oil revenues throughout the conflict.

The Executive Office (“EO”) took a clear policy decision to develop a mechanism to unfreeze the assets gradually, as the mechanisms for governance and public financial management for the transitional government were not equipped to deal with an influx of over 160 billion USD of assets. This policy was articulated clearly to key international actors in a series of meetings first in June

2011 in Cairo then in July 2011 in Istanbul and September 2011 in Paris. These culminated in the issuance of the UN Security Council Resolution 2009 of 16 September 2011, in particular Article 18 which stipulated the following:

“Requests the International Monetary Fund and the World Bank to work with the Libyan authorities on an assessment of Libya’s public financial management framework, which would recommend steps to be taken by Libya to ensure a system of transparency and accountability with respect to the funds held by Libyan governmental institutions, including the LIA, LNO, LAFB, LAIP and Libyan Central Bank, and further requests that the Committee be informed of the results of that assessment”

The tacit understanding behind the Resolution was that this article gave a mandate to the IMF and the World Bank to apply their experience so as to enhance the capability of the Libyan Transitional Authorities and to apply pressure to improve governance over the assets that would be gradually unfrozen into their accounts. After negotiating aspects of this Resolution in New York, the then NTC Minister for Reconstruction, Ahmed Jehani, followed up by meeting Christine Lagarde, Managing Director of the IMF, and Robert Zoellick, President of the World Bank, in Washington to set out a vision for the role of both organizations in the post conflict era. The Minister also sent clear messages to both the Department of the Treasury and the State Department in Washington that the Libyan assets subject to the international sanctions should be kept frozen until the Libyan government could establish appropriate structures and institutions with stable, transparent and accountable rule based governance to deal with those assets.

The IMF and World Bank had been associated with the public financial management system in Libya from 2006 and this would have provided them with a clear picture of the institutional capacity prevailing in Tripoli at the time and what was needed to deal with the potential abundance of financial assets.

As a result of the long discussions with the IMF and World Bank in Washington agreements were reached to establish the framework of the World Bank and IMF missions in Libya, with three guiding principles:

- (1) that the post conflict needs assessment should be a Libyan led process;
- (2) that the public financial management review should be coordinated by the Libyan government and
- (3) that the unfreezing of the assets should be managed in a gradual way so as not to undermine the capability of the Libyan Transitional Authorities to govern.

Although there was a craving for the release of much needed financial assets, the EO leadership understood that there would be severe risks if assets were not carefully managed when they were released. Consequently two post conflict Needs Assessment Workshops were organized, in Paris on 1 September 2011 and in New York on 20 September 2011, under the leadership of the NTC Prime Minister and Minister of Reconstruction. A vision for the post conflict planning was developed at both conferences.

In parallel a plan was conceived to organize and develop a trust fund that would be used as a mechanism to hold cash and assets transferred as a result of the unfreezing of assets. This trust fund was to have been managed by the Libyan authorities but the World Bank and IMF were to act as trustees. The proposed plan was designed to ensure that the post conflict needs assessment program

would be financed through this fund in order to ensure that there was fiscal prudence in designing the transitional government's reconstruction program.

This policy was designed with lessons learned through the Temporary Finance Mechanism designed by the contact group in May 2011; the experience of the TFM was intriguing and provided a framework for the transition and potentially beyond.

The first World Bank / IMF public financial management review team visited Tripoli on 13 October 2011. The first meetings were very positive and the review team witnessed that many key technocrats in the Ministry of Finance and the Central Bank of Libya were active and working, which greatly increased confidence.

However as the Elkeib Government assumed executive leadership of the country, expectations started to rise, and, although the oil production levels were moving into a positive direction, there was concern at the Ministry of Finance that they were due to incur a budget deficit of LYD 19 billion, approximately 20 % of GDP. The Elkeib Government moved to set aside the policy established by the EO and sent a letter to the UN Security Council (signed by President Mustafa Abduljalel, Prime Minister Abdulraheem Elkeib, Central Bank Governor, Sadeek Elkebier and Finance Minister Hassan Zeglam) asking for the immediate release of all assets.

On 5 December 2011 the UN Security Council issued Resolution 2016. This effectively granted the new transitional government its wish and thus undermined the previous policy. The Governor of the Central Bank was quick to declare that they been granted access to more than USD 100 billion in assets by the 7 December 2011, and this created a significant challenge for the Transitional Authorities to manage the public expectations.

On the 17 December 2011 the Finance Minister, Zeglam, went on Libyan national television to explain the immense pressure that the government was under to quickly issue cash hand outs and raise public salaries. The Minister expressed deep frustration with the request to increase public wages given that 80% of the labour force was employed in the public sector and that more than half of the public sector workers were not productive or indeed even active. The Minister defied the pressure exerted from different armed groups and issued statements that the government should not succumb to these pressures but should maintain fiscal prudence.

The following day on 18 December 2011 a group of armed revolutionaries surrounded the Prime Minister Elkeib at his office and asked for payments to be transferred to them. He issued a statement to confirm that he would personally ensure that all revolutionaries registered at any military council or local council would receive payments once their names had been registered with the government.

By January 2012 a large cash hand out program was established and the government's wage bill had increased by 50% from 2010. More than three quarters of the public budget was now focused on current expenditure. By June 2012 more than 240,000 individuals had registered as ex-combatants and were pressurising the government to give them cash handouts. Most of these demands have been accepted and the result has been significant damage to the economic stability of the country in addition to a much raised security threat.

In brief the multiple security and instability threats that Libya now faces and the establishment of different militia groups are in large part a result of the mismanagement of oil funds. The change in

policy that took place between October and November 2011 has been a major detrimental factor in shaping the country's current situation.

In reviewing the causes of this policy shift, it is clear that a few factors were key to the change. It is clear that Ban Ki Moon's visit to Tripoli on 2 November 2011 led the United National Support Mission in Libya, established by UNSC 2009, to assume a stronger leadership role than had been envisaged in the post conflict planning. Led by the Special Representative, Ian Martin, who was head of the political mission, UNSMIL gained a stronger role with the NTC and the Prime Minister Elkeib. This had the effect of undermining the efforts of the IMF and the World Bank and giving them only supporting roles at best.

As early as the transitional government post conflict needs assessment conference on 10 January 2011, the transitional government sought to change the needs assessment framework adopted by the EO and its Minister of Reconstruction. The IMF was not present at this conference and the World Bank only sent its country representative. As a result the economic agenda took second place to the transitional government's program and the political transition process, which became the lead items.

Elections also played their part. At the end of 2011 the US was nearing an election year and France was facing presidential elections in May 2012. It is probable that the lobbyists and politicians in Washington and Paris did not want the risk of populist rhetoric directed against them on the streets of Libya and thus sought to release the cash and let the Libyan government deal with the consequences of managing public expectations.

During the US Secretary of Defense, Leon Panetta's visit to Libya on 17 December 2011 it became clear that his primary concern was the spilling into the region of man-pads and other weapons, and the resulting destabilisation of areas in and to the south of Libya (as subsequently happened in Mali) rather than the economic situation of the country. This was representative of the International Community's general approach to the Arab Spring in that it focussed on security rather than the political, economic and financial aspects. In the case of Libya there were local leaders who sought to develop a clear vision for the economic transition, but the political will was lacking and there was insufficient focus on the key economic issues. This failure is one of the major factors in the subsequent political and security instability within Libya.

Gaddafinomics: The Libyan Centralized Rentier Model

The unpalatable truth about the Libyan economy is that it remains rooted in a heavily centralized rentier model, custom designed by Gaddafi for Gaddafi over forty years. Its main purposes were to maintain both centralized control of the state and to ensure the stability of its bizarre political regime. To understand the Libyan economy one must understand "Gaddafinomics", a uniquely perverted model of dictatorial economic management which distorted incentives and produced dysfunctional institutions over more than four decades, on a monstrous scale.

The essence of Gaddafinomics is the centralized control over the flow-of-funds in and from the public sector, which accounts for almost 90% of Libya's economy, coupled with centralized control over its institutions, legal system and laws. The funds derived from natural resources, were applied to maintain centralized power and control of the State. On the one hand this was done with apparent impunity, Gaddafi having supposedly abdicated his formal and legal responsibility in the management of Libya's economy, while on the other the Libyan people relinquished their own rights and accountability in exchange for stability and entitlements in the system. Key amongst these

entitlements were wages and subsidies, where jobs became lifetime appointments and wages fixed stable incomes, without any legal responsibility or practical requirement to work. This continued until the public employment system grew to the monstrosity it is today, accounting for more than 2/3rds of the Libyan workforce.

Gaddafinomics became the foundation for an implicit social contract between State and society, or “Jamahiriya” as he termed it, and central control of funds became the overriding driver for all formal legal institutions, where command, control and survival of the regime superseded all other rights and duties, and all rational economic decisions.

The fragile balance brought about by Gaddafinomics was fortified by full monopoly control of both money and guns. It produced an iron fisted but fragile state and a hollowed out society, with extraordinary distortions and contradictions in all institutions, political, economic and social. These distortions were legitimized by law, that is by legal text and “malprocess” rather than being founded in law based on rights and natural justice. This gave Libyan institutions a veneer of legitimacy, but contradicted the nature of these institutions in living reality.

These highly distorted relationships fueled by dependency on centralized oil flows created a massive imbalance between the State and Society which is value subtracting from both. Values and ethics in the Libyan system were completely distorted, skewing normal rational economic incentives as well as justice and competence in all spheres. Reality became split between a hollow formal reality and many parallel, informal realities which were and are rich with informal, but very much real, institutions, reflecting the highly distorted phenomena which parasitically feed off the flows of funds in the formal institutions. These parallel realities are behind the current absurdities of the Libyan situation and provide both negative and positive aberrations: the negative ones include the multiple parallel governments and free-fluxing alliances between ideological foes. The positive ones include a thriving black market economy, organic coping mechanisms and resilient social bonds. These have enabled the Libyan people to survive the official chaos in recent times.

The centralized of the flow of funds and its accompanying Gaddafinomics were the primary engines behind the hollowing of the formal political and economic institutions before 2011, and are the main drivers of the zero-sum conflict and continuous collapse since then.

The Perverse Incentives and the Role of the Central Bank of Libya (“CBL”)

Today Libya remains a country in conflict and chaos with no proper government. The primary cause of this situation is the entrenched and perverse system of incentives driven by the centralized mismanagement of Libya’s income and wealth. The system includes the banking sector as well as the policy, administrative and service delivery components of the entire bureaucracy of the Libyan state.

This highly fragmented system, tied together by total dependence on a central flow of funds from the Central Bank, which collects all Libyan natural resource revenues, is the key driver of the zero sum mind-set, incentives and bad behaviour of institutions and society.

This system continues to produce conflict, extensive social fragmentation and corruption on colossal scale amongst many other destructive distortions. It has all but depleted Libya’s reserves and eroded trust in its banking sector, producing a vicious cycle of inflation, chronic liquidity crises and currency printing, only to produce more inflation and mistrust.

As a result, the revenue in the CBL has become hostage to powerful incentives of unhinged rent seeking and unstoppable capital flight, which has transformed public wealth to a predatory informal economy, debasing the Libyan currency and threatening the very unity and territorial integrity of the Libyan State.

The system's administrative and institutional dysfunctions, coupled with the overwhelming mistrust created, has destroyed the availability, validity and integrity of data and information/evidence-based processes throughout the banking sector, government and society. In all likelihood, the informal currency market has much better data and information on the reality of prices, exchanges, and other indices, than the CBL or any other official institutions.

As such, the CBL was and remains unable to operate as an independent institution or perform its duties in managing the stability of the macro economy using monetary policy.

Furthermore, the CBL, as the fiscal agent of Libya's treasury nationally and globally, has become the de-facto government, effectively responsible for the decision-making and implementation of fiscal and commercial policy, naturally eliminating the roles and responsibilities of both the legislative and executive powers in making and implementing policy. Making government irrelevant in this way has not only produced parallel governments; perpetuating the crisis and undermining the Libyan Political Agreement, but has transformed 'governments' and by extension, society, as clients of the CBL.

Simply put the CBL has been reduced to an unregulated cash box collecting oil revenues and managing the allocation and distribution of this wealth amongst the communities of interest competing for it internally and externally. The fragmented public administration has become almost entirely superficial and defunct.

The ramifications of this crisis have thus far been mainly contained within the local Libyan economy hurting the local population by fuelling unemployment, shortages of supply from large-scale smuggling and import corruption, infrastructure collapse, civil war and more conflict. The spillage of capital flight regionally and internationally undoubtedly is a hidden driver of major threats including terrorism, illegal immigration, smuggling rings and intercontinental organized crime.

A Vision for an Alternative Economic Model

Libya's economic model needs to move from one which incentivizes negative behavior to one which promotes power and stability for the Libyan state with positive behavior from individual citizens, civil servants and politicians. This means abandonment of the centrally directed, top-down, control framework to one which emphasizes individuals and their families, businesses, private property, accountable local government, accountable central government, an independent judiciary and the appropriate rights and responsibilities of all of these parties.

The first of these rights would be the right of the nucleus of Libyan society, the Libyan family, to a basic social security net as a core commitment by the State to its people. This right to a universal basic income ("UBI") would replace the current payroll/subsidy entitlements and ensure an adequate income for all Libyan families to enable them to buy vital goods and basic services. This new right would be radically different from the current entitlement system as it is would not be linked to employment in the public sector. Agreement on a UBI would enable the government to fulfill its

obligations towards the Libyan family without this right becoming subject to political dispute or conflict.

The right of the Libyan family to a UBI would replace the current bloated wage and subsidy bill that underpins the rentier incentives in the current system. It would be a precursor to setting local communities on a path towards control over their fair share of natural resources and their right to political autonomy and economic viability. The next right would be one of local communities to manage and develop their own economies, by receiving and controlling their own current and capital budgets, by allocating to them a share in the flow of funds from natural resources. This right would establish local government as a core right and duty of Libyan communities and facilitate the dissolution of militias. The aim would be to establish a process of reconciliation within local governments first, before institutional unification of the security apparatus.

The new model would protect both individuals and local governments with RIGHTS to a share in the oil revenues, rather than a patronage entitlement linked to appeasement or subjugation by the central government. All natural resources would remain in the ownership of the Libyan people but specified shares in the revenue from those resources would be allocated to the UBI and local governments.

These two rights would require substantial changes to the role of the central government, which would become a body to represent sovereignty and ownership of natural resources for all Libyans, to prevent conflict and dispute over these resources, and to oversee and manage the distribution of income derived from them in accordance with the rights and shares of Libyan families and local governments. There would also be a need to allocate a defined share of oil revenues to the central government to fund its recurrent and capital costs and to provide sovereignty, peace and stability for all Libyans, including the functions of defense, security, national currency and foreign policy.

The right of the central government to revenue would become a (tax/duty) or agreed burden by the Libyan society for a mutual benefit of peace and stability for all Libyans, incentivizing a new accountable relationship between the State and society. This relationship would be a radical different shift from the former/current centralized control model, to a decentralized, specialized model, where the new central government is small, smart and efficient, and only has mandate for functions which cannot be undertaken by local governments.

Finally, the assets currently owned by the Libyan state represent the right of all Libyans to an equitable share in these assets, and therefore represent the right of all Libyans to private property for production. Without the right to private property there can be no right to civilized or democratic societies. In recognition of this right, the central government should work to transfer an equitable right to ownership in these assets to the individual Libyan citizen over time as financial instruments, and based on the institutional of the three aforementioned rights. This right represents individual voice and participation, where “taxation” is justified by representation. This right is the basis of the real rule of law in society and the values of democracy in the State, which remain absent, but this right builds a foundation for its emergence, hopefully in a not-so far future.

Timing of the Introduction of the Rights Based Model

The Skhirat Agreement faces difficulties in being implemented because it retained a rentier-based approach. It needs to be amended to include new rights-based principles with core rights and duties for the institutions of the State and society in Libya. These will provide a new framework of incentives. By excluding the individual citizen, Libya’s most important social unit, the family, as well as local government (militias and local communities as the entry point) the Skhirat Agreement,

piled all the burden on the central institutions produced by the LPA while real buy-in was missed from the wider elements of society.

Because the political process and Skhirat Agreement remained trapped in a rentier-based approach, it remains irrelevant and disconnected from these actors, especially so that these actors all continue to benefit from salary and subsidy payments which already make up in excess of 90% of the de-facto budget.

The Rights Based Model should be seen as an alternative framework of international law and political economy for Libya that would activate the political agreement and transform buy in and participation from Libyan citizens and the international community.

The Skhirat Agreement has excellent principles for governance but is more or less impossible to implement. Any “reset” for the process must resolve this issue. The main reason for this is not the individuals involved, but that the agreement lacked the right kind of participation, voice and triangulation between the three key stakeholders (power actors in the center, power actors in local society, and the international community). This has been recognized in the latest ICG report. Unfortunately while it remains unimplemented there is a growing daily threat of further political polarization and ultimately a total failure with Libya’s economic collapse.

What is now needed now is not only to bring more excluded actors into the process, but to ensure that the right kind of participation, buy-in and triangulation happens between these actors, to secure the necessary traction for a new workable LPA to be born.

A Proposed Model of Four Core Rights

Four core rights, establishing four respective institutions, are hereby proposed:

1. The Right of the State to Sovereignty

- Monopoly over legitimate force in central domain;
- Ownership and exports of Natural Resources;
- Allocation of oil revenues in accordance with Rights Charter and national and local budget;
- laws;
- Macroeconomic and Monetary Policy;
- Foreign Policy & International Relations;
- Strategic Infrastructure Projects (Power, Water).

2. The Right of Local Communities to Security, Political Autonomy and Economic Viability

- Monopoly over legitimate force in local domain;
- Control of local budgets;
- Managing local economy including international investments and trade and regulation of public assets;
- Delivery of all social services (health, education, housing, etc);
- Full independence of civil society.

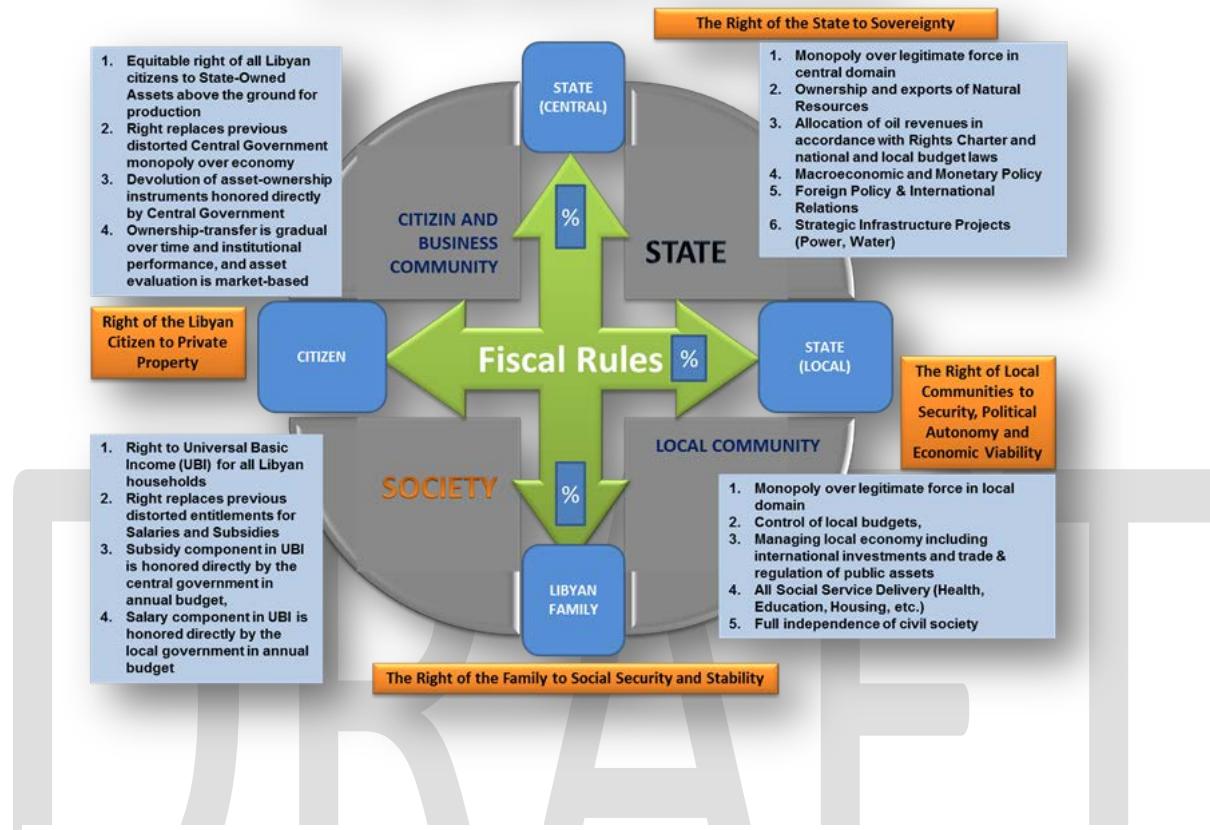
3. The Right of the Family to Social Security and Stability

- Right to Universal Basic Income (UBI) for all Libyan households;
- Right replaces previous distorted entitlements to salaries and subsidies;
- Salary component in UBI is honored directly by the local government in annual budget.

4. The Right of the Libyan Citizen to Private Property

- Equitable right of all Libyan citizens to state owned assets above the ground for production;
- Right replaces previous distorted Central Government monopoly over economy;
- Devolution of asset-ownership instruments honored directly by Central Government;
- Ownership-transfer is gradual over time and institutional performance, and asset evaluation is market-based.

Four core rights, establishing four respective institutions



Libyan Economic Agreement

Key:

